

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

Suburban Dodge of Berwyn, Inc. d/b/a
Suburban Dodge-Isuzu-Suzuki, an Illinois
Corporation,

Debtor.

Case No. 04 B 42931

Chapter 11

FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDER AWARDING TO SOSIN
LAWLER & ARNOLD, LTD., ATTORNEYS FOR THE DEBTOR, FOR ALLOWANCE AND PAYMENT
OF INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES

TOTAL FEES REQUESTED:	\$60,840.00	TOTAL COSTS REQUESTED:	\$871.56
TOTAL FEES REDUCED:	\$6,740.00	TOTAL COSTS REDUCED:	\$0.00
TOTAL FEES ALLOWED:	\$54,100.00	TOTAL COSTS ALLOWED:	\$871.56

TOTAL FEES AND COSTS ALLOWED: \$54,971.56

THE COURT HAS UNDERLINED THE ATTACHED TIME AND EXPENSE ENTRIES THAT HAVE BEEN DISALLOWED IN WHOLE OR IN PART. THE NUMERICAL NOTATION THAT APPEARS ON THE LEFT SIDE OF EACH HIGHLIGHTED ENTRY DISCLOSES THE BASIS FOR EACH DISALLOWANCE. THE NUMERICAL NOTATIONS REFER TO THE ENUMERATED PARAGRAPHS BELOW.

(1) **Lumping**

The Court may impose a ten percent penalty for "lumping." *In re Wildman*, 72 B.R. 700, 709 (Bankr. N.D. Ill. 1987) ("Applicants may not circumvent the minimum time requirement or any of the requirements of detail by "lumping" a bunch of activities into a single entry. [citation omitted]. Each type of service should be listed with the corresponding specific time allotment.").

(2) **Proper Time Increments for Billing**

The court may impose a ten percent penalty for using improper time increments for billing. "Professional persons . . . cannot, in all honesty and reasonableness, charge their clients for increments in excess of one-tenth of an hour." *In re Wildman*, 72 B.R. 700, 726 (Bankr. N.D. Ill. 1987). This penalty will be imposed where time increments larger than one-tenth of an hour are being used. For example, applicants who bill time using quarter-hour increments risk the ten percent penalty.

(3) **Insufficient Description**

The Court denies the allowance of compensation for the following task since the description of the time entry fails to identify in a reasonable manner the service rendered. *In re Pettibone*, 74 B.R. 293, 301 (Bankr.N.D.Ill. 1987) ("A proper fee application must list each activity, its date, the attorney who performed the work, a description of the nature and substance of the work performed, and the time spent on the work. [Citation omitted] Records which give no explanation of the activities performed are not compensable."); *In re Wildman*, 72 B.R. 700, 708-9 (Bankr. N.D. Ill. 1987) (same).

(4) **Unreasonable Time**

The Court denies the allowance in part of compensation for the following task since the professional or paraprofessional expended an unreasonable amount of time on this task in light of the nature of the task, the experience and knowledge of the professional performing the task, and the amount of time previously expended by the professional or another on the task. *In re Pettibone*, 74 B.R. 293, 306 (Bankr. N.D. Ill. 1987) ("The Court will determine what is the reasonable amount of time an attorney should have to spend on a given project...An attorney

should not be rewarded for inefficiency. Similarly, attorneys will not be fully compensated for spending an unreasonable number of hours on activities of little benefit to the estate." *In re Wildman*, 72 B.R. 700, 713 (Bankr. N.D. Ill. 1987) (same).

Dated: August 25, 2005


Eugene R. Wodoff
United States Bankruptcy Court

SOSIN LAWLER & ARNOLD, LTD.
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SALE OF ASSETS: SUBURBAN DODGE OF BERWYN, INC.

			Rate	Hours	
11/19/2004	DBS	Confer with Client, bankruptcy counsel regarding request for services and draft Asset Buy Sell Agreement and Lease required by Buy-Sell Agreement as an exhibit; update counsel for Berwyn and attorney for Purchaser, Jim Hardt, re same;	450	11.00	4,950.00
11/21/2004	DBS	Review client comments, revise Buy-Sell documents and Lease as exhibit to Agreement and forward to attorney for Purchaser;	450	1.20	540.00
11/23/2004	DBS	Confer with Attorney for Purchaser; review Cash Collateral order; confer with bankruptcy counsel; assemble documents and forward to Purchaser's attorney, Jim Hardt;	450	1.35	607.50
	DBS	Confer with Opposing Attorney regarding pending contract issues; update client and bankruptcy counsel re: same;	450	.50	225.00
11/24/2004	DBS	Confer with Client and attorneys regarding status of pending matters; review executed Order;	450	1.00	450.00
12/02/2004	DBS	Preparation for and meeting with Attorney Jim Hardt and Kathleen Field Orr to review contract proposals and pending issues with the Village; Approval by Village continuing dealership obligations and payment to estate by Village of tax sharing revenue;	450	3.50	1,575.00
12/06/2004	DBS	Follow up to meeting with attorneys for Buyer and Berwyn; assemble documents and forward to Purchaser; Confer with bankruptcy counsel re: status and confer with attorneys for Purchaser and City re same; Review bankruptcy filings and orders re deadlines; update client re same; review filings in related matters;	450	2.20	990.00
12/10/2004	DBS	Preparation for and conference call Chrysler attorneys; conference calls Attorney Jim Hardt and Michael Gesas to negotiate changes to Asset Purchase Agreement and exhibits;	450	3.10	1,395.00
12/12/2004	DBS	Preparation of revised exhibits to Buy Sell Agreement per agreed changes;	450	2.20	990.00
12/13/2004	DBS	Negotiations pertaining to final sale documents;	450	1.20	540.00

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②	DBS	Review final drafts of agreement and exhibits and confer with client to execute same;	450	1.45	652.50
	12/15/2004				
②	DBS	Confer with Buyer's attorney regarding final changes to "Final" agreements and exhibits;	450	.45	202.50
	RRE	Review and prepare spreadsheet regarding outstanding UCC filings in preparation for sale of business;	450	3.00	1,350.00
	12/16/2004				
③	DBS	Confer with Client and bankruptcy counsel;	450	.50	225.00
	12/17/2004				
③	DBS	Correspondence to client regarding existing UCC statements.	450	.25	112.50
①	DBS	Confer with Opposing Attorney for City of Berwyn (Kathleen Field Orr) regarding status of sale and tax incentive issues; Negotiations regarding payoff of Berwyn Development Corporation as a secured creditor and obligor of debtor, and revisions to agreements;	450	.50	225.00
	12/20/2004				
①	DBS	Negotiations pertaining to City of Berwyn with Attorney Kathy Orr; conference with client to update re same; confer with bankruptcy counsel re materials for 12/21/04 hearing;	450	1.10	495.00
	DBS	Confer with bankruptcy counsel regarding Berwyn Development Corp loan and collateral issues as secured creditor;	450	.50	225.00
	01/05/2005				
①	DBS	Review file for status; confer with client; contact Berwyn City attorney re meeting;	450	1.00	450.00
	01/06/2005				
①	DBS	Confer with client regarding status; follow up to court appearance; conference call Mike Gesas regarding necessary preparation for auction; follow up to client re same;	450	.50	225.00
	01/12/2005				
①	DBS	Confer with client and attorney Jim Hardt regarding status; prepare pro forma closing statement for trustee in bankruptcy per request of Michael Gesas;	450	.70	315.00
	01/14/2005				
① ②	DBS	Preparation for and meeting with City of Berwyn attorney and officials to negotiate regarding revised City agreement and release of collateral; attend auction for sale of assets and secured creditor attendance; prepare amortization schedule per request of Berwyn City Attorney for resumption of payments to debtor by City;	450	6.25	2,812.50
	01/17/2005				
① ②	DBS	Preparation of revised closing statement; review file for status; prepare closing checklist and confer with attorneys for Seller and bankruptcy counsel re same;	450	3.75	1,687.50
	01/18/2005				
①	DBS	Confer with bankruptcy counsel, Michael Gesas, at offices of Gesas and Pilatti to review status of pending matters; refine closing checklist; assign responsibility and discuss Chrysler release of collateral for lease and closing;	450	2.50	1,125.00

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01/20/2005	DBS	Review motion of Chrysler to lift automatic stay and lawsuit of ad agency; confer with bankruptcy counsel re same;	450	.60	270.00
01/25/2005	DBS	Confer with Berwyn City Attorney re status of agreement regarding sales tax sharing due the debtor for past operations;	450	.25	112.50
01/26/2005	DBS	Confer with attorney for City of Berwyn regarding release of funds from sales tax agreement;	450	.25	112.50
02/02/2005	DBS	Confer with Berwyn City Attorney, K. Orr, regarding status of payment; update client re same;	450	.25	112.50
02/10/2005	DBS	Confer with bankruptcy counsel and client re status of funding and pending issues regarding release of the property by Chrysler Financial;	450	.45	202.50
02/17/2005	DBS	Review Commitment letter from Citizens Bank to refinance land and possible re-leasing of the property to Purchaser as required by the Buy-Sell Agreement;	450	3.70	1,665.00
	DBS	Confer with Jim Hardt to update regarding status;	450	.25	112.50
	DBS	Confer with Opposing Attorney, Kathleen Field Orr, re status of revised agreement with City and payment of sums due dealership;	450	.25	112.50
03/02/2005	DBS	Confer with client re status of pending matters;	450	.25	112.50
03/15/2005	GJA	Confer with lender's attorney re title issues and organizational document; forward same to attorney; confer with Kathy Orr re status of Phelan approval; review correspondence from client regarding same; confer with client re title issues and loan issues;	450	1.50	675.00
03/16/2005	GJA	Confer with Kathy Orr regarding status; confer with BK attorney re same and approval of Phelan and closing;	450	1.00	450.00
03/17/2005	GJA	Confer with client re Phelan approval; confer with Kathy Orr regarding same and City ordinance and strategy for approval and payment to dealership;	450	.70	315.00
03/21/2005	DBS	Review file for status; confer with client, bankruptcy counsel and attorney for Purchaser re status;	450	.75	337.50
	DBS	Review titles for release of property liens; contact lien holders and title clearance matters regarding mechanics' liens to facilitate the lease to Purchaser as required by Contract;	450	1.35	607.50
	DBS	Confer with client and David Golin regarding status of pending matters;	450	.45	202.50

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03/22/2005	DBS	Review billing records per request of bankruptcy counsel;	450	.50	225.00
03/24/2005	DBS	Review of client figures and revise and prepare closing statements and projections;	450	1.30	585.00
03/29/2005	RRE	Confer with Landmark Engineering Corp; Obtain updated survey in preparation for closing on sale/lease;	450	.25	112.50
04/05/2005	DBS	Preparation for closing; review file for status; prepare closing document package and review amendments needed to contract regarding 2004 inventory and additional items;	450	4.50	2,025.00
04/06/2005	DBS	Confer with bankruptcy counsel regarding status of Amended Dealership Agreement;	450	.25	112.50
04/15/2005	DBS	Review City of Berwyn agreements regarding continued operation of business; multiple calls to attorneys regarding agreement revisions; confer with attorney for Purchaser regarding cooperation issue pertaining to sales tax; mark up agreement with City;	450	2.75	1,237.50
04/18/2005	DBS	Review file for status and confer with attorneys for Chrysler Financial regarding logistics of real estate and dealership closings and release by Chrysler of all collateral for closing and leasehold improvements required by Contract;	450	.50	225.00
	DBS	Confer with Opposing Attorney and redraft Berwyn agreement pertaining to payoff and relief of dealership from obligations of sale;	450	3.45	1,552.50
04/19/2005	DBS	Review Hardt letter of 4/15/05 regarding request for information; assemble information for response to same;	450	.45	202.50
	DBS	Confer with opposing attorney for Chrysler Financial regarding release of liens;	450	.25	112.50
04/25/2005	DBS	Confer with client regarding status of pending matters; forward Suzuki termination letters; draft letter to Atty. Hardt regarding appraisal issues;	450	1.10	495.00
04/26/2005	DBS	Confer with client re status of pending Berwyn agreement; final revisions to same; forward to Atty for Berwyn;	450	.70	315.00
	DBS	Preparation of final lease as required by Buy-Sell Agreement; confer with Chris Baker of Chrysler regarding status of tenancy; draft letters to attorney for Purchaser regarding pending matters; complete Berwyn agreement and forward to attorney for City and release of collateral for closing;	450	2.70	1,215.00

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① ②	04/28/2005 DBS	Confer with attorney for Seller; confer with client regarding status of Chrysler Financial willingness to release the property; conference call Frank Buckley of Chrysler Financial re same;	450	1.55	697.50
①	05/11/2005 DBS	Negotiations with J. Phelan counsel; confer with bank attorneys regarding refinance of property and lease of same to Purchaser; update client and bankruptcy counsel; confer J. Hasler with Citizens Bank;	450	1.70	765.00
①	05/12/2005 DBS	Confer with attorney for Purchaser regarding lease negotiations; confer with Frank Buckley, Chrysler Financial attorney; update bankruptcy counsel regarding unwillingness of Chrysler to release property without full repayment and refinance of the property;	450	.80	360.00
①	DBS	Confer with client and M. Gesas to review and revise figures confer J. Hardt regarding further negotiations; further discussions with Attorney Frank Buckley for Chrysler Financial;	450	1.20	540.00
①	05/13/2005 DBS	Preparation for closing; prepare closing document package; prepare and revise figures at request of attorneys for lender and bankruptcy counsel; confer and negotiations with Berwyn regarding development agreement issues, release of building and economic development agreement; assemble documents for new Berwyn counsel; meeting with counsel re same;	450	8.00	3,600.00
②	05/16/2005 RRE	Confer with attorney Mark Sterk; correspondence regarding pending matters;	450	.75	337.50
①	05/17/2005 DBS	Review closing documents and figures; revision of same; confer with co-counsel and clients and contact lender's attorney to update; confer with attorneys for Chrysler Financial and pre-closing on refinancing and payoff of Chrysler Financial and lease of property to Purchaser;	450	4.30	1,935.00
① ④	RRE	Confer with Cook County Treasurer's office; obtain duplicate tax bills for 2003 and 2004 tax years; correspondence to Treasurer's office regarding same by property owner at closing;	450	4.00	1,800.00
①	05/18/2005 DBS	Preparation of real estate documents and closing on loan and property to release Chrysler secured position under lease and refinance the property; Prepare lease memorandum for closing; review tax bills; review and execute loan documents;	450	6.00	2,700.00
	RRE	Confer with title company; correspondence regarding 2003 and 2004 proof of payment of property tax bill;	450	.50	225.00

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05/19/2005

① DBS Preparation of closing documents for closing on sale and attend closing; negotiations with Berwyn; prepare Michigan documents; confer with lender regarding same; 450 10.00 4,500.00

① RRE Correspondence regarding quit claim deed, owner's affidavit and Economic Incentive Agreement; Negotiations with lender to payoff Chrysler and waiver of lender requirements of new lender as to remediation and payment of Berwyn funds; confer with client regarding document execution; confer with Chicago Title regarding RESPA statement and status of closing documentation on multiple occasions; correspondence to opposing counsel regarding RESPA statement, loan documents, promissory notes and mortgage statements; confer with Chicago Title regarding same; 450 2.00 900.00

05/20/2005

① DBS Review and revise documents as result of continuing negotiations with City and lender; closing continuing on assets and lease matters; 450 11.00 4,950.00

05/23/2005

① DBS Preparation of post closing materials, final title waiver matters and organize file; 450 3.00 1,350.00

FOR CURRENT SERVICES RENDERED

135.2 60,840

11/30/2004	Messenger & Delivery Expense	31.50
03/29/2005	Survey expense, Landmark Engineering	800.00
04/14/2005	Messenger & B Delivery Expense	6.03
05/17/2005	Cook County Treasurer - Duplicate Tax bills	28.00
05/17/2005	Messenger & Delivery Expense	6.03

TOTAL EXPENSES

871.56

TOTAL CURRENT WORK

\$61,711.56